
IN THE
Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-1465

RAYMOND K. PROCUNIER, Director, California
Department of Corrections, et al., *Appellants*,

v.

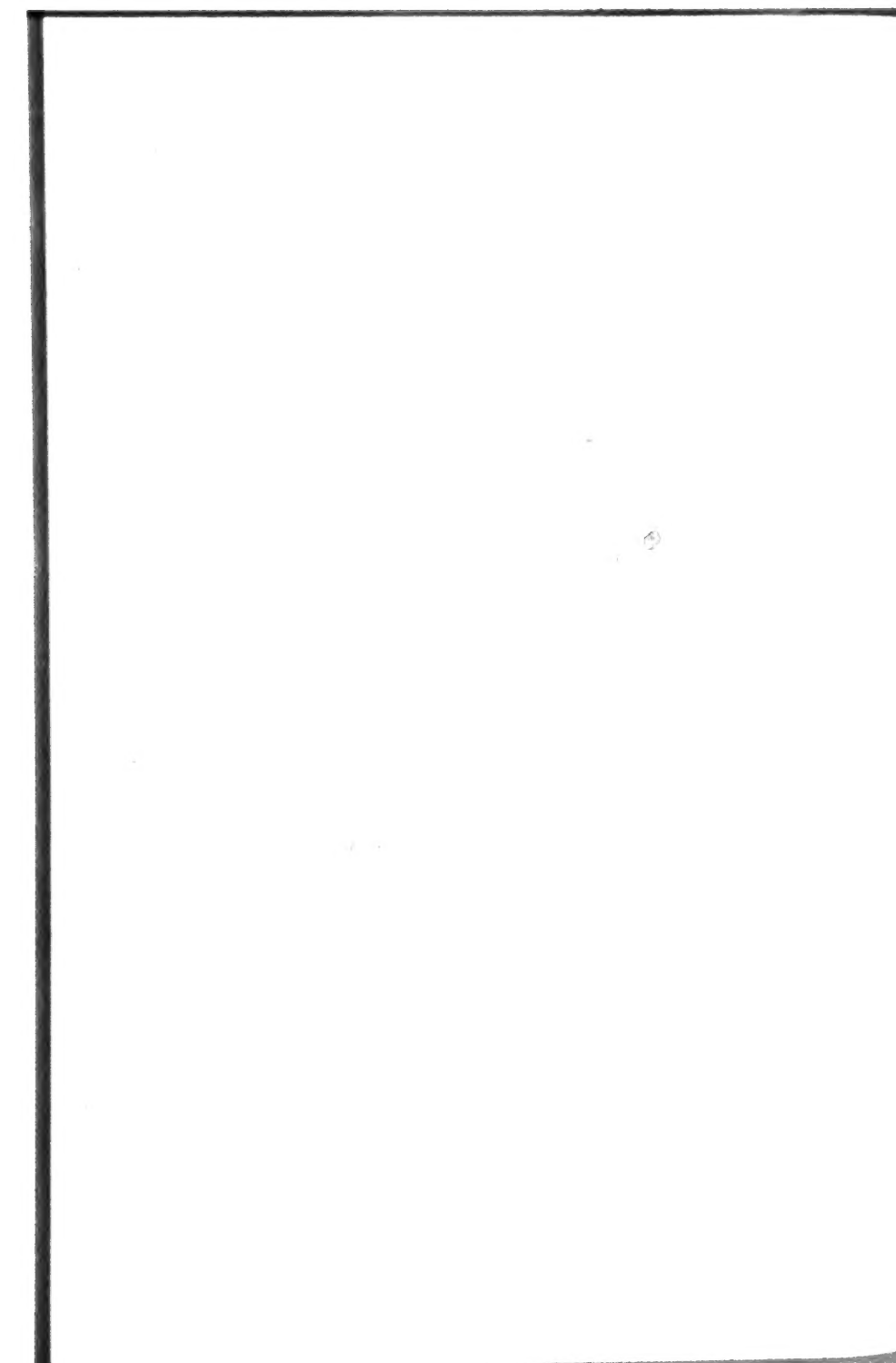
ROBERT MARTINEZ, et al., *Appellees*

On Appeal From the United States District Court For the
Northern District of California

**BRIEF AMICUS CURIAE ON BEHALF OF THE
NATIONAL PARALEGAL INSTITUTE, URGING
AFFIRMANCE**

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Institute, Inc.*





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INTEREST OF AMICUS CURIAE

The National Paralegal Institute was established in June, 1972 under a grant from the Office of Economic Opportunity to support and promote the use of paralegals in the public sector of law, particularly in the area of legal services to the poor. It is a non-profit organization located in Washington, D.C. Because the success of paralegals in serving the poor depends substantially on the development of the entire occupation,

the Institute's broad mandate includes establishing liaison with colleges, law schools, and bar associations, educating members of the legal profession regarding the use of paralegals, and designing training materials for the training of paralegals (See Appendix A). The Institute also serves as a clearinghouse and library for information concerning paralegals in both the private and the public sectors of law.

The National Paralegal Institute has played an important role in the development of the paralegal occupation. The Institute is vitally interested in the further expansion of the use of paralegals. It believes that trained paralegals are capable of providing a significant service to the legal profession and to those in need of legal services, including prison inmates.

The Institute will briefly present information tending to show that paralegals are a well-established and valuable adjunct to the legal profession, and that barring attorneys from using paralegals as part of legal services to prison inmates is an arbitrary and unconstitutional denial of inmates' rights.

ARGUMENT

We are witnessing the creation, development, and rapid growth of a new level within the legal profession—the paralegal (or legal assistant, legal technician, or similar term). A paralegal is, generally speaking, a layman who is trained to assume many of the routine tasks which are now performed by lawyers but which do not utilize the lawyer's unique skills or constitute the practice of law. The duties of paralegals vary according to the setting in which they work. In private law firms, for example, paralegals draft and file corporate documents, maintain clients' tax records, and

collect data relevant to estate planning. In the public sector,¹ among other things, paralegals interview clients, investigate facts, and conduct negotiations. (See Appendix B). Paralegals are being trained to perform a variety of functions in many different areas of the law. It is a purpose of this brief to provide information about the growth of the paralegal occupation and to describe the ways in which paralegals can and should be used to help meet the serious need for more adequate legal services for prisoners.

The development of the paralegal movement has been greatly facilitated by the interest and active support of lawyers and educators.

In 1968, the American Bar Association adopted the following resolution.²

"Recognizing that freeing a lawyer from tedious and routine detail thus conserving his time and energy for truly legal problems will enable him to render his professional services to more people, thereby making legal services more fully available to the public, this Committee recommends:

1. That the legal profession recognize that there are many tasks in serving a client's needs which can be performed by a trained, nonlawyer assistant working under the direction and supervision of a lawyer;

¹ The terms "private sector" and "public sector" appear throughout this brief. "Private sector" refers to private law firms of all sizes. "Public sector" encompasses OEO Legal Services Offices and governmental agencies at the "federal, state and local levels.

² Resolution of the American Bar Association, adopted by the House of Delegates, on the recommendation of the Special Committee on Availability of Legal Services, 93 Reports of the American Bar Association 353 (1968).

2. That the profession encourage the training and employment of such assistants"

The ABA at that time established a Special Committee on Lay Assistants to help implement these recommendations. Since its formation, the Committee has engaged in a variety of activities.

In 1969, the Committee sponsored surveys of law firms around the country and found that there was "a significant" use of non-lawyers.³ In 1970, the Committee held a three week on-the-job training program for legal assistants and lawyers in San Francisco. In 1971, the Committee published a set of recommendations for paralegal training.⁴ In October of 1971, the Committee published a study of new careers in medicine, dentistry, and architecture in order to inform lawyers of parallel paraprofessional developments outside the field of law.⁵ In June of 1971, the Committee co-sponsored a national conference in Denver with the Council on Law Related Studies, and the Association of American Law Schools Committee on Paraprofessional Legal Education. Conferees from many backgrounds throughout the country discussed paralegals in private and public law practice, problems of education, and the future of the occupation. A report on the conference was published entitled *New Careers in Law II*. The Committee

³ Committee on Lay Assistants, American Bar Association, *Lib-
erating the Lawyer: The Utilization of Legal Assistants by Law
Firms in the United States* (preliminary draft, June 1971).

⁴ Committee on Lay Assistants, American Bar Association, *Pro-
posed Curriculum for Training of Law Office Personnel* (prelimi-
nary draft, October, 1971).

⁵ Committee on Lay Assistants, American Bar Association, *The
Paraprofessional in Medicine, Dentistry, and Architecture* (1971).

is currently engaged in a survey of the paralegal training available in colleges.

The Association of American Law Schools has also been supportive of the paralegal movement. In 1970, AALS created a Committee on Paraprofessional Education. Among other things the Committee recommended that AALS:

- 1) Commission two studies: a law review symposium on paralegals (one has since been done at Vanderbilt),⁶ and a study and evaluation of present training programs;
- 2) Consider commissioning a paralegal curriculum development project;
- 3) Consider special admission standards for paralegals in law schools; and
- 4) Consider the emerging need for paralegal teachers.

The American Association of Community and Junior Colleges has been responsive to paralegal training possibilities, primarily through its member colleges which have undertaken two year training courses. AACJC is interested not only in new training programs but also in promoting the community service capacity of its members. The paralegal movement offers the possibility for both. It is the practice of AACJC, in order to promote programs, to prepare national studies of the potential job opportunities in a field, the nature of training, and the structure of training programs. The Association is currently considering producing such materials for paralegals.

⁶ Symposium on Legal Paraprofessionals, 24 Vand. L. Rev. (1971).

A significant element in the development of the paralegal occupation is its training institutions. Through these institutions paralegals are trained to undertake the variety of tasks which different legal situations demand. Some of these training institutions, particularly those training paralegals for private law offices, are well-established and highly sophisticated. Many exist within the framework of law schools, universities and colleges, junior and community colleges and newly created proprietary schools. Other training programs, for both public and private law are informally structured and take the form of in-house or on-the-job training. A closer examination of specific institutions involved in paralegal training programs may give the Court an understanding of the significant role these entities have played in the development of paralegalism.

LAW SCHOOLS

Some law schools, in an effort to promote the paralegal movement, have included in their curriculum training programs for paralegals. The Antioch School of Law offers a training program for paralegals in the public sector of law. In this program trainees learn a variety of legal skills, primarily through clinical experiences.

The University of West Los Angeles School of Law also offers a paralegal program. This program trains paralegals to work in private law firms, and its basic curriculum structure is similar to that of the law school.

In an effort to explore effective methods to train paralegals, particularly for the public sector of law, several law schools have conducted paralegal training pilot study programs. Most of these programs offered intensive studies in specialized public law subjects such

as Fair Housing, Consumer Claims, Landlord-Tenant, Welfare, Domestic Relations, Social Security and Human Rights. Generally, the objective of these programs was to give paralegals an overview of areas of law, train them to identify potential legal problems, and to act as liaison between client and lawyer. The Denver College of Law, Boston College and Columbia Law School are some of the law schools which have engaged in such projects. The results of these studies have provided a theoretical basis for subsequent programs.

UNIVERSITY EXTENSION

Several extension divisions of universities have launched paralegal training programs, primarily for the private sector of law. The two most prominent are at UCLA and USC in Los Angeles. The principal characteristic of these programs is their intensity. Over a four to six week period several hundred hours of training are provided in a specialty such as probate law.

A new paralegal program at George Washington University now trains 44 paralegals in a one year program covering broad general legal knowledge and a series of specialty courses.

COMMUNITY AND JUNIOR COLLEGES

By far, the most extensive institutional training entities among the private schools have been community and junior colleges' two year programs. There are over 25 two year colleges that offer paralegal training programs, and many more are considering adopting such a curriculum; the ABA Special Committee on Legal Assistants has estimated that by the end of 1973

there will be 100 junior colleges offering training for paralegals.

A typical junior or community college curriculum for training paralegals might include the following basic introductory courses:

1. Legal Research and Writing
2. General Law Office Procedures and Management
3. Structure of the Legal System
4. Litigation

and selected areas of specialization:

1. Business Organizations (Corporations, Partnership, Agency)
2. Law of Property, Contracts and Leases, and Real Estate Transactions
3. Income Taxation
4. Wills, Trust and Probate Administration
5. Insurance Law and Claim Investigation
6. Bankruptcy, Domestic Relations
7. Accounting

Concerned groups have suggested that community and junior colleges because of their interest in providing services to the community are an appropriate place to do paralegal training for the public sector of law. Several community and junior colleges have responded enthusiastically to this notion and have expressed an interest in implementing such a program on campuses. Thus, it is anticipated that in coming years, the number

of paralegal training programs in the public sector on two year college campuses will increase substantially.

SINGLE PURPOSE ENTITIES

Several newly created entities provide training programs for paralegals in both the private and public sectors of law. The Institute for Paralegal Training in Philadelphia was established as a private corporation for training select college graduates to be paralegals in private law firms. Trainees attend an intensive three month program during which they specialize in one of the following areas of law:

1. Corporate law
2. Estates and Trusts
3. Litigation
4. Real Estate
5. General Studies—Professional Associations and Benefit Plans

The Dixwell Legal Rights Association, Inc. of New Haven was funded by the Office of Economic Opportunity to improve and extend legal services to the poor. It conducted an experimental paralegal training program for local community workers as well as trainees from anti-poverty Legal Services offices outside of New Haven. (The program is no longer in existence.)

IN-HOUSE TRAINING

Most paralegals in both private and public law are trained on the job or through in-house training sessions. Many private law firms hire capable people with college degrees but little or no legal training and

train them to perform tasks according to the specific needs of that firm.

Other firms provide in-house training for selected staff such as interested and able secretaries. To train such persons attorneys gradually delegate more demanding assignments to these employees under close supervision until they have developed the skills of a paralegal.

Many paralegals in public law are employed in OEO Legal Services offices. In a survey conducted by the National Paralegal Institute during the Fall, 1972 it was established that paralegals are used extensively in these offices. In the 215 responding offices there were 364 full-time and 87 part-time paralegals. Most of these received in-house training (of 127 OEO projects which employ paralegals, 123 had their own in-house training program and in 69 offices this was their sole source of training). The in-house training was usually conducted by OEO staff attorneys and had two components: (1) formal training and orientation, and (2) on-the-job training. Formal training often took the form of two or three day sessions on the function of OEO Legal Services, the nature of the paralegal's job, the rules of ethics, an overview of the courts and legal system, legal skills and techniques, and lectures on the substantive law areas in which the paralegal will be working.

This kind of in-house or on-the-job training of paralegals is also used in many governmental agencies. Although they are not usually identified with the title of paralegal, hundreds of employees in government agencies and branches of government perform the tasks of a paralegal. For instance, paralegals in substantial num-

bers work within the National Labor Relations Board, Equal Employment Opportunity Commission, and Federal Trade Commission. These agencies and the Civil Service Commission are exploring the design of a paralegal job title within federal employment and inter-agency training programs.

There is substantial evidence that paralegals have helped improve the quality and quantity of legal services to the poor. For instance, it has been reported by various anti-poverty legal services offices that their caseload has increased significantly from using paralegals.⁷ This has been accomplished, in part, through a redistribution of manpower workload within the office such that the paralegals conduct virtually all of the initial interviews while the attorneys devote their time to specifically legal matters.⁸

Moreover, the quality of services rendered has been reportedly improved. Legal Services projects with paralegals are handling new kinds of cases and cases that once were given only minimum assistance by

⁷ St. Louis Legal Services reports that over a one year period the annual caseload increased roughly from 9,600 to 13,000. During the period of this caseload increase, the number of attorneys in this St. Louis office decreased but additional paralegals were employed. (This information and that contained in the following four notes was conveyed to the National Paralegal Institute staff in a series of telephone conversations and written communications with Legal Services offices around the country.)

⁸ The Long Beach, California Legal Services Project reports that at the beginning of 1972, paralegals handled 15% of the total caseload of the main office. By the end of 1972, after expanding the paralegal staff while holding steady on the attorney staff, the paralegals were handling over 50% of the cases. The paralegals now do 100% of the initial interviews on every new office case.

attorneys are now being given comprehensive attention.⁹

In surveys and studies by the National Paralegal Institute, Legal Services attorneys have routinely expressed satisfaction with the work product of paralegals who have taken over tasks previously done by attorneys, including drafting correspondence and legal documents.¹⁰ The value of paralegals in Legal Services offices was assessed in the questionnaire administered by the National Paralegal Institute. Of the 215

⁹ This is apparent in a St. Louis office, where attorneys previously received a high volume of insurance cases (*e.g.* automobile insurer refuses to honor a claim), public utility cases, and landlord harassment. Because of the burdens of a heavy caseload attorneys could normally do no more than write a single letter and hope the matter would be taken care of. Frequently this was not enough but attorneys had no time to pursue the matter further. Now that the St. Louis office has paralegals, however, such cases are given extensive attention with an exceptionally high success rate.

¹⁰ A Brooklyn Legal Services attorney who supervises two paralegal specialists in landlord tenant cases finds evidence that the paralegals are doing quality work in that the court papers (*e.g.*, orders to show cause why an eviction should not be ordered) drafted by the paralegals (and signed by the attorney) have been "getting through the courts". A St. Louis attorney has been watching the complaint letters received from clients or from opposing counsel or opposing party-litigants in approximately 1,000 cases handled by four paralegals over a one year period. No complaints have been received that are attributable to the work product or work style of the paralegals. This same attorney reports exceptional satisfaction with the quality of the paralegals' judgment and their overall dependability. Many lawyers have reported that paralegals have become a necessary part of the legal services delivery system. The director of the New Bedford, Massachusetts program reports the impact paralegals have had on his office: "[We have] had a paralegal unit half a year and it is the most indispensable part of our program". In a similar vein, the following comment was made by the New York City Legal Services attorneys: "Our office could not function without him [paralegal]".

Legal Services projects which responded, the verdict was overwhelmingly favorable:

	Number	Percentage
Of great value	143	66.5
Of some value	29	13.5
Of slight or negligible value	none	0
Of no value	none	0

When asked about future utilization of paralegals 127 of these 215 offices said that they had need for additional paralegals. Indeed, some projects are choosing to hire paralegals rather than attorneys when funds for new staff are available.¹¹

Despite the vital role paralegals are assuming in legal services delivery, the California Department of Corrections regulations challenged in the instant case¹² will result in prison inmates being effectively denied access to a valid adjunct to the legal profession. The consequences of this restriction become even more egregious in view of the serious deficiency which exists in the legal services available to prisoners.

As of 1970, there were 211,151 adult male felons confined—21,040 in federal prisons and 190,111 in state prisons. It has been estimated that in one year these prisoners will have 204,900 legal problems or approxi-

¹¹ The Denver Legal Services Program reported that their budget was cut \$102,000 for 1973-74. The staffing decision as a result was to reduce the lawyer staff and not the paralegals. In the Long Beach, California project funds were available in September, 1973 to employ one new attorney or two paralegals. The project opted for the latter.

¹² Director's Mail and Visiting Manual Section MV-IV-02 (Exhibit C, Appellants' Brief).

mately one problem per prisoner per year.¹³ This estimate includes not only questions relating to the prisoner's conviction and incarceration but also civil problems and institutional grievances. It is also estimated that 75-80% of the legal problems raised by prisoners involve more than just legal advice and would not be immediately dismissed as frivolous by an attorney.¹⁴

Yet, prisoners are often severely handicapped in obtaining redress of their legal problems by their financial and educational deficiencies. At least 90% of all prisoners are indigent¹⁵ and so unable to hire an attorney to expedite their cases. Most prisoners are poorly educated and many are illiterate. The President's Crime Commission in 1967 found that 82% of all prisoners had not even finished the eighth grade.

The result of this combination of factors is that many prisoners have no alternative but to file appeals and petitions on their own. Because in many cases the prisoner has so little education the petitions are often poorly pleaded and virtually incoherent. The burden on the courts created by these petitions is immense.

Judges are well aware of the needs of prisoners for legal assistance. As Judge Leventhal stated in *United States v. Simpson*, 436 F.2d 162 (D.C. Cir. 1970):

" . . . In the last analysis, however, the problem of petitions for collateral review that are frivolous,

¹³ Jacob and Sharma, *Prisoners' Need for Legal Services in the Criminal-Correctional Process*, 18 Kan. L. Rev. 505, 509 (1970). (hereinafter Jacob and Sharma article).

¹⁴ Commission on Correctional Facilities and Services, American Bar Association, *Providing Legal Services to Prisoners*, 11 (1973).

¹⁵ Jacob and Sharma article, *supra* note 13, at 510.

incoherent, false because copied slavishly from winning patterns, or otherwise lacking merit, seems likely to plague the courts until a system is established for providing legal counsel to federal prison inmates on a reasonably broad basis". (at 167)

Similarly, Judge Curtin emphasized in *United States ex. rel. Stevenson v. Mancusi*, 325 F. Supp. 1028 (E.D. N.Y. 1971):

"... the most important part of a legal assistance plan is not the law books or library, or the availability of decisions, but the opportunity to consult with an attorney, or at least a person of good common sense and experience who can, in a straight forward and complete manner, set forth the inmate's claim in understandable fashion". (at 1032)

There is evidence that increased availability of legal services actually reduces the number of *pro se* petitions filed.¹⁶ It has been the general experience that inmates who are advised that their claims lack merit do not continue to file *pro se* suits but, rather, abide by the advice of their counselor as long as the counselor has credibility in the inmate system.¹⁷ And, those petitions which are filed with the help of a knowledgeable coun-

¹⁶ This was the experience of the University of Kansas Law School which utilized law students. The statistics are reported in Progress Report, Consortium of States to Furnish Legal Counsel to Prisoners, Grant number 71-DF-1116 as Submitted to L.E.A.A. on February 24, 1973.

¹⁷ Note, *Legal Services for Prison Inmates*, 1967 Wisc. L. Rev. 514 (1967); Larsen, *A Prisoner Looks at Writ-Writing* 54 Calif. L. Rev. 343 (1968); Bluth, *Legal Services for Inmates: Co-opting the Jailhouse Lawyer*, 1 Capital U. L. Rev. 59 (1972); Wexler, *Counseling Convicts: The Lawyer's Role in Uncovering Legitimate Claims*, 11 Ariz. L. Rev. 629 (1969).

selor are much more likely to be well-pleaded and to state the prisoner's complaint clearly.

Increasing the access of prisoners to legal services does not benefit only the courts. A study of institutional administrators, conducted by the Center for Criminal Justice of Boston University School of Law, established that the vast majority of administrators believe that legal services would help prison discipline and prisoner rehabilitation.¹⁸

<u>PROPOSITION</u>	<u>AGREE</u>
Prisoner legal services are not now adequate.	76 %
Legal services would not tend to increase prisoner hostility against the institution.	85 %
Legal services would provide a safety valve for grievances (real or imagined) against the institution.	80.4%
Legal services would reduce inmate tensions created by unresolved legal problems.	92 %
Legal services would not tend to have an adverse effect on prison discipline and security.	82.9%
Legal services would help to reduce the effect of prisoner power structures.	80 %
Legal services might help rehabilitation by providing a positive experience with laws and the legal system.	82.4%

Prison administrators were particularly sensitive to the secondary benefits that could derive from providing effective legal services for prisoners. As one prison superintendent noted: "In my opinion, the major con-

¹⁸ Center for Criminal Justice, Boston University School of Law, *Perspectives on Prison Legal Services: Needs, Impact, and the Potential for Law School Involvement* (1972).

tribution would be convincing the offender that he has not been victimized by society and the judicial system". Another attested to the efficacy of legal services by commenting that the program in his institution "has proven to be very effective in relieving tensions through problem solving, be it real or superficial".

Officials specifically charged with rehabilitation — the institutional treatment directors—were even more positive. An overwhelming 97.2% agreed that "an inmate's eventual rehabilitation and successful reintegration into society are significantly affected by unresolved legal problems and that such unresolved legal problems are an impediment to effective participation in treatment programs". They concluded as well that:

<u>PROPOSITION</u>	<u>AGREE</u>
Negative prisoner attitudes toward law and the legal process are a detriment to rehabilitation.	94.4%
These negative attitudes might be improved by a legal service program.	94.4%
A breakdown of external relationships and heavy dependence on institutional value and social systems are harmful to rehabilitation.	95.4%

Efforts are being made to make legal services more readily available to prisoners. Sixty-three law schools across the country offer some form of legal assistance to prisoners.¹⁹ Several states have established separate programs staffed by attorneys to handle prisoners' legal needs.²⁰ Clearly, the further development of such

¹⁹ Council on Legal Education for Professional Responsibility, Inc., *Survey of Clinical Legal Education* (1973).

²⁰ These include Texas, Massachusetts, Ohio, Minnesota, Wisconsin, and Washington.

programs represents a desirable solution to the problem. Yet, programs staffed only by lawyers are costly. Manageable workloads require a large number of attorneys. In addition, the need for face-to-face communication with prisoners cannot be overemphasized. Because of their low educational level, many prisoners are not capable of expressing themselves clearly in a letter, on a form, or in a post-conviction petition. A personal interview is essential to gather facts adequately and to measure the client's credibility and needs. In order for the prisoner to gain respect for our legal system, it is essential that his case be explained to him, especially when no action will be taken. Interviewing and fact gathering, which are undeniably necessary elements of effective legal representation, are time-consuming and often burdensome to attorneys.

It is here, in this crucial area of personal communication with the prisoner, that the potential for paralegal involvement is most promising. It is the common practice in anti-poverty Legal Services offices for a trained paralegal to conduct the initial interview with the client. The paralegal gathers the facts necessary for the supervising attorney's decision whether or not to accept the case and if the case is accepted, what course to pursue. Trained paralegals can be effectively utilized to perform this same function in prisons. Indeed, the National Advisory Commission on Criminal Justice Standards and Goals has recommended that both law students and paralegals be used to provide assistance to attorneys concerned with prisoners' problems.²¹ And the American Bar Association Com-

²¹ National Advisory Commission on Criminal Justice Standards and Goals, *Correctional Standard 2.2* (1973). (publication pending)

mission on Correctional Facilities and Services has estimated that an attorney working with one full-time paralegal and two law students could handle twice as many prisoners' cases as an attorney working alone.²²

The potential benefits of using paralegals to conduct fact investigation by interviewing prisoners can be obtained without impairment of the security of the institution. Paralegals performing this function will be under the direct supervision of an attorney.

An attorney can be required to provide, in advance of the prison visits, the names of the paralegals working for him. Other information such as that requested of regular visitors can also be obtained by the institution to insure that the paralegal's background is acceptable and to verify that he or she does not pose a threat to prison security. Such procedures are already in practice for visits by the families and friends of inmates and so would not unduly burden the prison administrators.²³

CONCLUSION

The paralegal occupation has developed to the point where it is widely recognized as a distinct level within the legal hierarchy. Many programs exist for the training of paralegals in educational institutions. Paralegals are being used to perform a variety of tasks in private law firms, government agencies, and Legal Services offices. To forbid paralegals from entering prisons to interview inmates is to deny prisoners an aspect of legal assistance which is available to those

²² ABA Report, *supra* note 14 at 25.

²³ See *e.g.* Folsom State Prison Mail and Visiting Regulations (1973); California Institution for Men Visiting Policy (1973).

who are not imprisoned. Further, it is to ignore a significant resource which could be used to ease the problem of providing more adequate legal services to prisoners.

The National Paralegal Institute urges the Court to find that the regulation barring paralegals in the employ of attorneys from admission to California prisons in connection with legitimate legal services being offered by the attorney is a violation of the Constitutional rights of inmates.

Respectfully submitted,

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APPENDIX

APPENDIX

APPENDIX A*Publications of the National Paralegal Institute*

Training materials for paralegals now (or soon to be) available include:

- The Role of the Paralegal
- Interviewing—A Trainer's Manual
- Legal Interviewing for Paralegals
- Investigation in a Law Office: A Manual for Paralegals
- Unauthorized Practice and Ethics Rules
- Introduction to the Legal System—A Short Story for Paralegals
- Legal Research
- Legal Writing
- Dictionary of Paralegal Functions
- Teaching Advocacy: Learner-Focused Training for Paralegals
- Contracts, Torts, and Due Process

Specialized materials available or in preparation include:

- Background of the Paralegal Movement
- Model Training Curriculum
- The Santa Cruz Story—Senior Citizens' Legal Services—a movie and accompanying manual
- Welfare Basic Structure
- Welfare System (ATD, AFDC)
- Welfare Case Interviewing
- 16 mm film—How to Establish a Paralegal Unit
- 16 mm film—Interviewing
- 16 mm film—The Administrative Hearing
- Video Tape—Interviewing

APPENDIX B

Excerpts from "What Have Paralegals Done?: A Dictionary of Functions", a 1973 publication of the National Paralegal Institute, offered to show in detail the work which paralegals are now doing in selected areas of legal practice.

Frequency, Skill, Supervision

At the far left hand corner of each of the following pages are three columns which will provide the reader with some information on each task listed. The three columns will be:

FIRST COLUMN: "Fr." (Frequency)

On a scale of three, this column will provide a *rough estimation* of how commonly the task is being performed by paralegals in the country today. The scale will be "1" "2" or "3" (or a fraction thereof):

"1": infrequently performed

"2": being performed a fair number of times

"3": being performed frequently

SECOND COLUMN: "Sk." (Skill)

On a scale of three, this column will provide a *rough estimation* of how much skill (*e.g.*, organizational ability, reading comprehension, perseverance, etc.) the paralegal needs to perform this task. The scale will be "1" "2" or "3" (or a fraction thereof):

"1": does not require much skill to perform

"2": requires a moderate amount of skill to perform

"3": requires considerable skill to perform

THIRD COLUMN: "Su." (Supervision)

On a scale of three, this column will provide a *rough estimation* of how much lawyer supervision has been needed to assist the paralegal to perform the task listed. The scale will be "1" "2" or "3" (or a fraction thereof):

"1" requires very little supervision of paralegal to perform the task

"2" requires a moderate amount of supervision of paralegal to perform the task

"3" requires a considerable amount of supervision of the paralegal to perform the task

EXAMPLE:

ITEM	Fr.	Sk.	Su.
A. Making a preliminary draft of a will ..	1	3	3
B. Serving papers in court on a divorce case	3	1	1

INTERPRETATION :

Paralegals seldom draft wills (1); they often serve papers (3). It takes considerable skill to draft a will (3); it takes very little skill to serve papers (1). A great deal of supervision is needed to assist a paralegal to make a preliminary draft of a will (3); it takes very little supervision on serving papers (1).

No effort is made in the following pages to evaluate the effectiveness of performance on any listed task. The only test of whether an item is included in the following pages has been: does any evidence exist that the paralegal is performing the task listed? Also, no effort is made to describe the training program (formal or on-the-job) that the paralegals went through to be able to perform the task.

Corporate Law

	Fr.	Sk.	Su.
<i>I. Incorporation and Corporate Work</i>			
<i>A. Pre-Incorporation</i>			
1. Check on availability of proposed corporate name and if available reserve it	3	1	1
2. Draft pre-incorporation subscriptions and consent forms for initial board of directors where required by statute	2	2	2

Fr. Sk. Su.

B. Incorporation

1. Draft and file articles of Incorporation with appropriate state agency	2	3	2
a. Sub-chapter S Corporation	2	3	2
b. Close corporation	2	3	2
c. Non-profit organization ...	1	3	2
2. Draft minutes of initial meetings of incorporators and directors	3	2	1
3. Draft corporate by-laws	2	3	2
4. Obtain corporate seal, minute book and stock certificate book	3	1	1
5. Prepare necessary documents for opening of corporate bank account	3	1	1

C. Director's Meetings

1. Prepare and send out waivers and notices of meetings	3	1	1
2. Draft minutes of directors meetings	3	2	1
3. Draft resolutions to be considered by directors:			
a. sale of stock	2	3	3
b. increase in capitalization..	2	3	3
c. stock splits	2	3	3
d. stock option	2	3	3
e. pension plan	2	3	3
f. dividend distribution	3	3	2
g. election of officers	2	3	2

	Fr.	Sk.	Su.
D. Shareholder's Meetings (Annual and Special)			
1. Draft sections of annual report relating to business activity, officers and directors of company	2	3	3
2. Draft notice of meeting, proxy materials and ballots	3	1	1
3. Prepare agenda and script of meeting	2	3	2
4. Draft oath and report of judge of elections when required ...	2	2	1
E. Drafting, Generally			
1. See drafting above in reference to director's and shareholder's meetings			
2. Shareholder agreement	2	3	3
3. Stock option plan	2	3	3
4. Trust agreement	1	3	3
5. Tax returns	3	3	3
6. Closing papers on corporate acquisition	2	3	3
7. Employment agreement	1	3	3

II. Public Sale of Securities

A. Compile information concerning officers and directors for use in Registration Statement	2	2	2
B. Assist in research of Blue Sky requirements	2	3	2
C. Closing			
1. Prepare agenda	3	2	2

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	Fr.	Sk.	Su.
2. Obtain certificates from state agencies with respect to good standing of company and certified corporate documents ..	3	2	2
3. Prepare indices and organize closing binders	3	2	2
<i>III. Miscellaneous Corporate Activities</i>			
A. Prepare documents for qualification to do business in foreign jurisdictions	2	3	2
B. Prepare necessary documents to amend articles of incorporation or by-laws	3	3	3
<i>IV. Research</i>			
A. Legislative reporting: keep track of pending legislation that may affect office clients	1	3	3
B. Summarize/digest certain files (a file profile)	2	3	3
C. Extract designated information from corporate records and documents	2	3	3
D. Assemble financial data from records on file at SEC and state securities regulatory agencies	1	3	3
<i>V. General Assistantship</i>			
A. Maintain "tickler" system (e.g., specifying next corporate meeting, upcoming trial, appellate court dates)	2	3	2
B. Monitor the daily law journal (e.g., specifying certain cases on calendars of courts, current court decisions, articles, etc., and forwarding such to appropriate office attorneys)	3	3	2

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	Fr.	Sk.	Su.
C. Act as file managers of certain clients (index, monitor documents in the file, etc.)	3	2	2
D. Maintain corporate forms file ..	3	2	1

*Criminal Law**I. Pre-Trial**A. Investigation*

1. Verify information	3	2	1
2. Find evidence and additional information	3	3	2
3. Locate witnesses	2	2	1
4. Search official records	3	2	2
5. Write investigation reports for attorneys	3	3	2

B. Explain the criminal process (to defendants, to witnesses, to complainant—if work for DA—to relatives)

1. the bail process	1	2	2
2. the preliminary hearing	1	2	2
3. the trial and appeal process..	1	3	2

C. Assist in Bail Process

1. Verify bail information	3	1	1
2. Help find bail bondsman	2	1	1

D. Develop case for alternative to incarceration in anticipation of conviction

1. Identify community resources (Job training, drug rehabilitation, counselling, medical help, etc.)	2	2	1
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	Fr.	Sk.	Su.
2. Determine whether these resources would be willing to enroll the accused now or upon a court order	2	2	1
3. Get a letter from agencies to this effect or see if a representative of the agency will appear in court on behalf of accused	2	2	1
E. Draft preliminary pleadings, legal research .....	.5	3	2
<i>III. Trial</i>			
A. Argue entire case for client in court .....	.5	3	1
B. Argue part of case for client in court .....	.5	3	1
C. Be General Assistant to Lawyer at Trial			
1. Keep files together	2	2	2
2. Be available for assignments (e.g., get a document during the recess)	2	2	2
3. Take notes for the attorney..	1	2	2
4. Make suggestions to attorney on what to ask witnesses	1	3	3
D. Be a witness for the defense (e.g., if paralegal came across information during investigation that needed his verification, etc.)	1	2	3
<i>IV. Appeal</i>			
A. Legal research .....	.5	3	3
B. Statistical research (e.g., look over jury lists to determine whether any patterns of de facto or de jure discrimination might exist)	1	3	3
C. Monitor the files on court appeals	3	1	1

Fr. Sk. Su.

V. Miscellaneous

Write pamphlets on criminal law for distribution in the community	1	3	3
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*Investigation Generally**I. Document Gathering*

A. Medical records	3	2	1
B. Police records	3	2	2
C. Birth and death records	3	2	1
D. Marriage records	3	2	1
E. Adoption and custody records..	3	2	1
F. Incorporation records	3	2	2

II. Record Research

A. Find out from court dockets if a particular merchant being sued has sued before (does any pat- tern exist?)	2	3	2
B. Find out who the "real owner" is of an apartment building	2	3	2
C. Check housing code agency to see if a particular landlord has other building code violations against him on record	3	2	1

III. Statistical Research

A. Spot check merchants to deter- mine if pricing discrimination or false advertising exists	1	2	2
B. Interview families along a pro- posed highway route to deter- mine what problems they are facing and/or to provide them with information on the con- demnation process	1	2	2

	Fr.	Sk.	Su.
IV. Fact Gathering (other than documents)			
In a wide range of cases (<i>e.g.</i> , criminal, divorce, custody, housing, <i>etc.</i>), the investigator substantiates facts, follows leads for possible evidence in connection with litigation, <i>etc.</i>	3	3	2
V. Filing/Service			
A. Serve parties involved in litigation	3	1.5	1
B. File papers in court	3	1	1
VI. Act as Court Witness			
A. As to service of process	1	1	1
B. As to data uncovered or photographed (<i>e.g.</i> , the condition of an apartment building)	1	3	3
Litigation, Generally			
I. File Monitor on Cases in Litigation			
1. Index all files	3	3	2
2. Write case profile based on information in the files	2	3	2
3. Read attorney briefs to check accuracy of the information in the litigation file	2	3	3
4. Organize and index documents obtained through discovery	2	3	2
II. Investigation			
1. Interview witnesses	3	3	2
2. Trace documents and other physical evidence	3	2	2
3. Examine public records (<i>e.g.</i> , to determine how many times a particular corporation has been sued) ..	2	3	2

	Fr.	Sk.	Su.
<i>III. Interrogatories/Depositions</i>			
1. Make preliminary draft of interrogatories	2	3	3
2. Make preliminary draft of answers to interrogatories	2	3	3
3. Digest and index interrogatories and depositions	3	3	3
4. Make preliminary draft of deposition questions	2	3	3
<i>IV. Filings/Serving: in court, at agencies, on parties, on attorneys, etc. . .</i>			
	3	1	1
<i>V. General Assistantship</i>			
1. Arrange for clients and others to be interviewed	3	2	1
2. Arrange for expert witnesses to appear in court or at depositions	3	2	1
3. Reconstruct from a large collection of disparate records and other evidence what happened at a particular time and place	2	3	3
4. Digest deposition transcripts ...	2	3	2
5. Assist clients in completing information questionnaire (<i>e.g.</i> , in reference to class action plaintiffs)	1	2	2
6. Prepare charts/tables to be used as exhibits at trial	2	3	2
7. Sit at counsel's table at trial in order to take notes and suggest questions to attorney to be asked of witnesses	1	3	2
<i>VI. Legal Research</i>			
1. Shepardizing, cite checking	2	3	2
2. Memo and brief writing .....	.5	3	3
3. Prepare bibliographies of source materials related to litigation ...	3	2	2

	Fr.	Sk.	Su.
VII. Pleadings: Preliminary draft of pleadings using office standard forms and referring to pleadings written by attorneys on similar cases	2	3	3
VIII. Expert Analysis: Render expert opinions to attorneys:			
1. taxation	2	3	3
2. accounting	2	3	3
3. statistics	2	3	3
4. economics (<i>e.g.</i> , calculation of damages)	2	3	3

Post-Conviction Remedies and Corrections Law

I. Problem Identification

A. Inmate wants to appeal conviction directly	3	3	1
B. Inmate wants to attack conviction collaterally (<i>via coram nobis, habeas corpus, etc.</i>)	3	3	1
C. Inmate wants to challenge a decision of the parole board	3	3	1
D. Inmate wants to challenge a decision of the prison staff, <i>e.g.</i> , denial of the right to subscribe to a particular journal	3	3	1
E. Inmate wants to have help in preparing his parole board case	1	3	1
F. Inmate wants help in preparing his case before the disciplinary committee	2	3	1
G. Inmate wants help in preparing his administrative appeal of the decision of the disciplinary committee	1	3	1

	Fr.	Sk.	Su.
H. Inmate feels that staff has improperly calculated the time he must serve because of:			
a. a failure to give the inmate credit for time served while waiting trial	2	3	1
b. a failure to give the inmate credit for "good time" earned	2	3	1
c. a misreading of the court's sentence	2	3	1
II. Writ-Writing, Administrative Complaint Writing			
A. Inmate helps other inmate draft writ by studying other cases and by doing research in the prison law library and in the inmate's own personal law "library"	3	3	1
a. to obtain appointment of counsel	3	3	1
b. to obtain an evidentiary hearing	3	3	1
c. to obtain a free copy of court records, <i>e.g.</i> , trial minutes (<i>via in forma pauperis</i> petition)	3	3	1
d. to obtain "good time" credit that the inmate-client claims is his due	3	3	1
B. Inmate helps other inmate draft a written complaint			
a. addressed to parole board complaining about a parole decision	2	3	1
b. addressed to prison staff complaining about a prison decision <i>e.g.</i> , to discontinue library hours, to transfer an inmate's job assignment	2	3	1

	Fr.	Sk.	Su.
III. Record Gathering: assist the inmate in obtaining court papers in the hands of attorneys, DA's, court clerks, etc. (e.g., copy of the judgment, indictment, trial minutes, depositions, correspondence, etc.)	3	2	1
IV. Representation			
A. One inmate "represents" another at a disciplinary hearing ..	.5	3	..
B. One inmate "represents" another at a parole board hearing (a staff member may also "represent" the inmate at both kinds of hearings)	.5	3	..
V. Librarian: Act as clerk-librarian for the prison law library, (keep the texts up to date with new additions, etc.)	3	1	1
VI. Mediation: Act as go-between in disputes involving staff and inmate:			
A. Inmate as mediator	1	3	1
B. Staff member as mediator	3	3	1

APPENDIX C**Institutions Offering Paralegal Training Programs****CALIFORNIA**

California State U. at Los Angeles
5151 State University Drive
Los Angeles, California
Joseph E. Deering

Canada College
4200 Farm Hill Blvd.
Redwood, California 94061
415-364-1212

City College of San Francisco
51 Phelan Avenue
San Francisco, California
James McConnel

Dominican College of San Rafael
San Rafael, California 94901
Henry Aigner, Dean

Fullerton Junior College
321 East Chapman Avenue
Fullerton, California 92634
714-871-8000

Glendale University
College of Paralegal Studies
220 North Glendale Avenue
Glendale, California 91206

LaVerne College
Graduate Studies School
LaVerne, California
714-593-3511

Lone Mountain College
2800 Turk Blvd.
San Francisco, California 94118

Los Angeles City College
855 N. Vermont Avenue
Los Angeles, California 90029

Merritt College
12500 Campus Drive
Oakland, California 94619
415-531-4911

Mid-Valley College of Law
Div. of Assoc. Legal Arts
Suite A-2
15910 Ventura Blvd.
Encino, California
213-9867-175

Peralta Junior College District
Oakland, California

Sawyer College of Business
6832 Van Nuys Blvd.
Van Nuys, California
213-873-1919

UCLA
University Extension
Los Angeles, California
UCLA Daytime Programs
10995 LeConte
Room 437 G
Los Angeles, California 90024
213-825-2301

University of Southern California
Program for Legal Paraprofessionals
Law Center and Univ. Coll. Ext. Div.
Admin. Bldg. Rm. 354
Los Angeles, California 90007

University of West Los Angeles
School of Law-Div. of Paralegal Studies
11000 West Washington Blvd.
Culver City, California 90230
213-873-1203

COLORADO

Community College of Denver
Auraria Campus
1201 Acoma Street
Denver, Colorado 80204

DISTRICT OF COLUMBIA

Antioch School of Law
1145 19th Street, N. W.
Washington, D. C. 20036
202-833-9614

George Washington University
Legal Assistant Training Program
2029 K Street, N. W.
202-676-7036

ILLINOIS

Harper College
Paralegal Program
Palatine, Illinois 60067

MARYLAND

Washington Business School
Paralegal Course
5454 Wisconsin Avenue
Chevy Chase, Maryland 20015

MICHIGAN

Macomb Community College
Warren, Michigan

MINNESOTA

North Hennepin State Junior College
7411 85th Avenue North
Minneapolis, Minnesota 55455

University of Minnesota
General College
106 Nicholson Hall
Minneapolis, Minnesota
612-373-4816

MISSOURI

Meremac Community College
Kirkwood, Missouri 63122

NEVADA

Reno Junior College of Business
Wells and Wonder
Reno, Nevada 89502
Don S. Thompson

NEW JERSEY

Burlington County College
Pemberton, New Jersey 08360
DeWitt Peterson

Cumberland College
Box 517
Vineline, New Jersey
609-691-8600

NEW YORK

College for Human Services
201 Varick Street
New York, New York 10014

OHIO

Capital University
2199 E. Main Street
Columbus, Ohio 43209
John W. McCormac

OREGON

Clackamas Community College
Oregon City, Oregon
Chairman, Business Division

Lane Community College
4000 E. 30th Avenue
Eugene, Oregon 97405

Mt. Hood Community College
26000 S.E. Stark Street
Gresham, Oregon
Jack D. Miller

Portland Community College
12000 S.W. 49th Avenue
Portland, Oregon 97219

PENNSYLVANIA

Allegheny Community College
808 Ridge Avenue
Pittsburgh, Pa.
412-321-0192

Institute for Paralegal Training
401 Walnut Street
Philadelphia, Pa.
215-925-0905

SOUTH CAROLINA

Greenville Technical Education Center
P.O. Box 5616 Station B
Greenville, South Carolina 29606
Fred H. Piott

UTAH

University of Utah
College of Law
Salt Lake City, Utah
801-581-6987